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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,312	07/08/2003	Greg Brannstrom	12888-2	1867

7590 05/16/2005

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EXAMINER
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TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/616,312

Applicant(s)

BRANNSTROM, GREG

Examiner

Alicia M Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-8 and 10-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-27 is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 6 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cetrulo, Jr., hereafter Cetrulo, in view of Hobbs and Boese.

3. Regarding claims 1 and 5, Cetrulo discloses a harvester for vine crops with
  - severing means (115)
  - the harvester having a wheel-mounted frame with a forward end, a rear end, a right side, a left side and a center,
  - means for moving the harvester forwardly in a field,
  - pickup means (74) adjacent the forward end for picking up crops and attached vines from the field and carrying the crops and vines rearwardly and upwardly,
  - separating means (111, 112) for separating crops from the vines,

an improvement in the pickup means (74) comprising:

- ground-engaging conveyors (100) extending from the forward end of the harvester (10),
- each conveyor (100) having a bottom end and a top end,

- a cutter (115) attached at the bottom end.

However, Cetrulo fails to disclose a central conveyor and an outrigger conveyor, the central conveyor and outrigger conveyor, the outrigger conveyor pivotally attached to the central conveyor such that the outrigger conveyor may be pivoted from a first position with the outrigger conveyor in the same relative position as the central conveyor, to a second position with the outrigger conveyor at approximately a right angle to the central conveyor; and

a lower cross-conveyor transversely mounted at the top end of the outrigger conveyor, the lower cross-conveyor adapted to receive crops and attached vines transported upwardly from the outrigger conveyor, the lower cross-conveyor moving the crops and attached vines from a side of the frame toward the center of the frame, as per claim 1; and

further comprising an intermediate endless loop conveyor such that the long axis of the intermediate conveyor is approximately parallel to the center of the harvester, the intermediate conveyor receiving crops and attached vines from the cross-conveyor and transporting the crops and attached vines upwardly to the separating means, as per claim 5.

Hobbs discloses a similar vine conveyor including

- a central conveyor (B) and an outrigger conveyor (A),
- the outrigger conveyor (A) pivotally attached to the central conveyor (B) such that the outrigger conveyor (A) may be pivoted from a first position with the outrigger conveyor (A) in the same relative position as the central conveyor (B), to a second position with the outrigger conveyor (A) at approximately a right angle to the central conveyor (B).

Boese discloses a similar harvester including

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- a lower cross-conveyor (192) transversely mounted at the top end of the outrigger conveyor (78) adapted to receive and move the crops and attached vines from a side of the frame (12) toward the center of the frame (12), as per claim 1; and
- an intermediate endless loop conveyor (198) such that the long axis of the intermediate conveyor (198) is approximately parallel to the center of the harvester, for receiving crops and attached vines from the cross-conveyor (192) and transporting the crops and attached vines upwardly, as per claim 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the folding conveyor of Hobbs on the harvester of Cetrulo in order to move the conveyors to an inoperative position for storage and transportation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cross-conveyor of Boese on the harvester of Cetrulo in order to converge material.

4. Regarding claims 6 and 10-12, Cetrulo discloses a harvester (10) for vine crops, with
- severing means (115),
  - a wheel-mounted frame having a forward end, a rear end, a right side, a left side and a center,
  - means for moving the harvester forwardly in a field,
  - pickup means (100) adjacent the forward end, and
  - separating means (111, 112) for separating crops from the vines,
- an improvement in the pickup means comprising:

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- ground-engaging conveyors (100) comprising a central conveyor extending from the forward end of the harvester, each conveyor (100) having a bottom end and a top end,
- a cutter (115) attached at the bottom end.

However, Cetrulo fails to disclose a right-side outrigger conveyor, and a left-side outrigger conveyor, the right-side outrigger conveyor extending from the forward end of the harvester, each conveyor having a bottom end and a top end, the right-side outrigger conveyor pivotally attached to the central conveyor such that the right-side outrigger conveyor may be pivoted from a first position with the right-side outrigger conveyor in the same relative position as the central conveyor, to a second position with the right-side outrigger conveyor at approximately a right angle to the central conveyor, and the left-side outrigger conveyor pivotally attached to the central conveyors such that the left-side outrigger conveyor may be pivoted from a first position with the left-side outrigger conveyor in the same relative position as the central conveyor, to a second position with the left-side outrigger conveyor at approximately a right angle to the central conveyor and a lower left cross-conveyor transversely mounted at the top end of the left-side outrigger conveyor, the lower left cross0conveyor adapted to receive crops and attached vines transported upwardly from the left side outrigger conveyor, the lower left cross-conveyor moving the crops and attached vines from the left side of the frame toward the center of the frame, as per claim 6; and

further comprising a lower right cross-conveyor transversely mounted at the top end of the right-side outrigger conveyor, the lower right cross-conveyor adapted to receive crops and attached vines transported upwardly from the right-side outrigger conveyor, the lower right

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cross-conveyor moving said crops and attached vines from the right side of the frame toward the center of the frame, as per claim 10; and

further comprising an intermediate endless loop conveyor such that the long axis of the intermediate conveyer is approximately parallel to the center of the harvester, the intermediate conveyor receiving crops and attached vines from the lower left cross-conveyor and transporting the crops and attached vines upwardly to the separating means, as per claim 11; and

further comprising an intermediate endless loop conveyor such that the long axis of the intermediate conveyer is approximately parallel to the center of the harvester, the intermediate conveyor receiving crops and attached vines from the lower right cross-conveyor and transporting the crops and attached vines upwardly to the separating means, as per claim 12.

Hobbs discloses a similar vine conveyor including

- a right-side outrigger conveyor (A) pivotally attached to the central conveyor (B) such that the right-side outrigger conveyor (A) may be pivoted from a first position with the right-side outrigger conveyor (A) in the same relative position as the central conveyor (B), to a second position with the right-side outrigger conveyor (A) at approximately a right angle to the central conveyor (B),
- a left-side outrigger conveyor (C) pivotally attached to the central conveyor (B) such that the left-side outrigger conveyor (C) may be pivoted from a first position with the left-side outrigger conveyor (C) in the same relative position as the central conveyor (B), to a second position with the left-side outrigger conveyor (C) at approximately a right angle to the central conveyor (B), as per claim 6.

Boese discloses a similar harvester including

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- a lower left cross-conveyor (79) transversely mounted at the top end of the left-side outrigger conveyor (79) and adapted to receive and move the crops and attached vines from the left side of the frame (12) toward the center of the frame (12), as per claim 6; and
- a lower right cross-conveyor (192) transversely mounted at the top end of the right-side outrigger conveyor (78) adapted to receive and move crops and attached vines from the right side of the frame (12) toward the center of the frame (12), as per claim 10; and
- an intermediate endless loop conveyor (198) such that the long axis of the intermediate conveyor (198) is approximately parallel to the center of the harvester, for receiving crops and attached vines from the lower left cross-conveyor (193) and transporting the crops and attached vines upwardly, as per claim 11;
- an intermediate endless loop conveyor (198) such that the long axis of the intermediate conveyor (198) is approximately parallel to the center of the harvester, for receiving crops and attached vines from the lower right cross-conveyor (192) and transporting the crops and attached vines upwardly, as per claim 12.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the folding conveyor of Hobbs on the harvester of Cetrulo in order to move the conveyors to an inoperative position for storage and transportation.

It would have been obvious to one having ordinary skill in the art at the time the



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invention was made to include the cross-conveyor of Boese on the harvester of Cetrulo in order to converge material.

5. Claims 2, 3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cetrulo, Hobbs and Boese as applied to claims 1 and 6 above, and further in view of Gilbert.

Cetrulo further discloses wherein each conveyor comprises a drive shaft at the top end, as per claims 2 and 7, and a hydraulic motor coupled to the drive shaft, as per claims 3 and 8.

However, the combination fails to disclose rods connected by a belt at each end of the rods.

Gilbert discloses a similar harvester including rods (unnumbered) connected by a belt at each end of the rods.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rods of Gilbert on the harvester of Cetrulo, Hobbs and Boese in order to aid in lifting.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3, 5-8 and 10-11 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

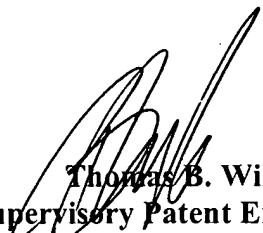
7. Claims 13-27 are allowed.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
May 10, 2005